

authorized officer may proceed with implementation of the decision.

(43 U.S.C. 1181(a); 30 U.S.C. 601 *et seq.*; 43 U.S.C. 1701)

[49 FR 28561, July 13, 1984]

PART 5040—SUSTAINED-YIELD FOREST UNITS

Sec.

5040.1 Under what authority does BLM establish sustained-yield forest units?

5040.2 What will BLM do before it establishes sustained-yield forest units?

5040.3 How does BLM establish sustained-yield forest units?

5040.4 What is the effect of designating sustained-yield forest units?

5040.5 How does BLM determine and declare the annual productive capacity?

AUTHORITY: 43 U.S.C. 1181e; 43 U.S.C. 1740.

SOURCE: 63 FR 13132, Mar. 18, 1998, unless otherwise noted.

§ 5040.1 Under what authority does BLM establish sustained-yield forest units?

BLM is authorized, under the O. and C. Lands Act (43 U.S.C. 1181a *et seq.*) and the Federal Land Policy and Management Act, to divide the lands it manages in western Oregon into sustained-yield forest units. These lands are hereafter referred to as “the O. and C. lands.” BLM establishes units that contain enough forest land to provide, insofar as practicable, a permanent source of raw materials to support local communities and industries, giving due consideration to established forest products operations.

§ 5040.2 What will BLM do before it establishes sustained-yield forest units?

Before BLM designates sustained-yield forest units, it will:

(a) Hold a public hearing in the area where it proposes to designate the units. BLM will provide notice, approved by the BLM Director, to the public of any hearing concerning sustained-yield forest units. This notice must be published once a week for four consecutive weeks in a newspaper of general circulation in the county or counties in which the forest units are situated. BLM may also publish the notice in a trade publication; and

(b) Forward the minutes or meeting records to the BLM Director, along with an appropriate recommendation concerning the establishment of the units.

§ 5040.3 How does BLM establish sustained-yield forest units?

After a public hearing, BLM will publish a notice in a newspaper of general circulation in the county or counties affected by the proposed units, stating whether or not the BLM Director has decided to establish the units. If the BLM Director determines that the units should be established, BLM will include in its notice information on the geographical description of the sustained-yield forest units, how the public may review the BLM document that will establish the units, and the date the units will become effective. BLM will publish the notice before the units are established.

§ 5040.4 What is the effect of designating sustained-yield units?

Designating new sustained-yield forest units abolishes previous O. and C. master unit or sustained-yield forest unit designations. Until new sustained-yield forest units are designated for the first time in accordance with 43 CFR part 5040, the current master unit designations will continue to be in effect.

§ 5040.5 How does BLM determine and declare the annual productive capacity?

(a) If BLM has not established sustained-yield forest units under part 5040, then BLM will determine and declare the annual productive capacity by applying the sustained-yield principle to the O. and C. lands, treating them as a single unit.

(b) If BLM has established sustained-yield forest units under part 5040, then BLM will determine and declare the annual productive capacity by applying the sustained-yield principle to each separate forest unit.

(c) If it occurs that BLM has established sustained-yield forest units for less than all of the O. and C. lands, then BLM will determine and declare the annual productive capacity as follows:

Bureau of Land Management, Interior

§ 5400.0-3

(1) BLM will treat sustained-yield forest units as in paragraph (b) of this section; and

(2) BLM will treat any O. and C. lands not located within sustained-yield forest units as a single unit.

Group 5400—Sales of Forest Products

PART 5400—SALES OF FOREST PRODUCTS; GENERAL

Subpart 5400—Sales of Forest Products; General

Sec.

5400.0-3 Authority.

5400.0-5 Definitions.

5400.0-7 Public hearings to determine surplus quantities and species of unprocessed timber.

Subpart 5401—Advertised Sales; General

5401.0-6 Policy.

Subpart 5402—Other Than Advertised Sales; General

5402.0-6 Policy.

AUTHORITY: 61 Stat. 681, as amended, 69 Stat. 367, 48 Stat. 1269, sec. 11, 30 Stat. 414, as amended, sec. 5, 50 Stat. 875; 30 U.S.C. 601 *et seq.*, 43 U.S.C. 315, 1181a, 16 U.S.C. 607a, and 43 U.S.C. 1701 *et seq.*

Subpart 5400—Sales of Forest Products; General

§ 5400.0-3 Authority.

(a) The Act of August 28, 1937 (43 U.S.C. 1181a) authorizes the sale of timber from the Revested Oregon and California Railroad and Reconveyed Coos Bay Wagon Road Grant Lands and directs that such lands shall be managed for permanent forest production and the timber thereon sold, cut and removed in conformity with the principle of sustained yield for the purpose of providing a permanent source of timber supply, protecting watersheds, regulating streamflow and contributing to the economic stability of local communities and industries, and providing recreational facilities.

(b) The Act of July 31, 1947, as amended (30 U.S.C. 601 *et seq.*) authorizes the disposal of timber and other vegetative resources on public lands of the United

States including lands embraced within an unpatented mining claim located after July 23, 1955, if the disposal of such resources is not otherwise expressly authorized by law including, but not limited to, the Act of June 28, 1934, as amended (43 U.S.C. 315 through 315o-1) and the U.S. mining laws; is not expressly prohibited by laws of the United States; and would not be detrimental to the public interest.

(1) The Act also authorizes the United States, its permittees, and licensees to use so much of the surface of any unpatented mining claim located under the mining law of the United States after July 23, 1955, as may be necessary for access to adjacent land for the purposes of such permittees or licensees. Any authorized use of the surface of any such mining claim shall be such as not to endanger or materially interfere with prospecting, mining, or processing operations or uses reasonably incident thereto.

(2) Where the lands have been withdrawn in aid of a function of a Federal department or agency other than the Department of the Interior, or of a State county, municipality, water district, or other local governmental subdivision or agency, the Secretary of the Interior may make disposals under the regulations in this subpart only with the consent of such other Federal department or agency or of such State, or local governmental unit. The Act provides, however, that the Secretary of Agriculture shall dispose of materials if such materials are on lands administered by the Secretary of Agriculture for national forest purposes or for purposes of title III of the Bankhead-Jones Farm Tenant Act or where withdrawn for the purpose of any other function of the Department of Agriculture.

(3) The provisions of the Act in disposal of vegetative or mineral materials do not apply to lands in any national park, or national monument or to any Indian lands or lands set aside or held for the use or benefit of Indians including lands over which jurisdiction has been transferred to the Department of the Interior by Executive order for the use of Indians.

(c) The Department of the Interior and Related Agencies Appropriation Act, 1976 (Pub. L. 94-165) prohibits the